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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,297	03/18/2004	Uwe Vogt	CH-8121/LeA 36,628	5718
34947 7590 03/23/2007 LANXESS CORPORATION 111 RIDC PARK WEST DRIVE PITTSBURGH, PA 15275-1112			EXAMINER THOMAS, JAISON P	
			ART UNIT	PAPER NUMBER
			1751	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/23/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/803,297	VOGT ET AL.	
	Examiner	Art Unit	
	Jaison P. Thomas	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-18 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-18 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1,3-18 and 21 are pending. Claims 19,20 and 22 are cancelled. Claims 1,3-8,10,12-18 and 21 are amended.
2. The rejection of Claims 19,20 and 22 are mooted in view of applicant's cancellation of the claims.
3. Claims 1,3-18 and 21 stand rejected as unpatentable under 35 USC 103(a) over Collins (US Patent 5876625) in view of Virkler (US Patent 6350872).

### ***Continued Examination Under 37 CFR 1.114***

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/22/2006 has been entered.

### ***Claim Objections***

5. Claim 1 is objected to because of the following informalities: a period is missing at the end of the claim. Appropriate correction is required.

***Specification***

6. The abstract of the disclosure is objected to because the scope of the abstract does not conform with the subject matter of the claims. The claims are directed to processes of dyeing textiles while the abstract details uses of an oxidizing system to remove excess, unfixed dye from textiles.

Correction is required. See MPEP § 608.01(b).

***Response to Arguments***

7. Applicant's arguments filed 12/21/2006 have been fully considered but they are not persuasive.

Applicant argues that the modification of Collins in view of Virkler has no reasonable expectation of success if the modification was made and therefore there is no motivation to combine the reference. Applicant argues, specifically, that Collins fails to teach any evidence that the Collins system is capable of oxidizing and decoloring reactive dyes. Further, Applicant argues that there is no motivation to add a rinse step of utilizing the Collins oxidizing system based on the disclosure of Virkler.

The Examiner respectfully disagrees with the above arguments, because as stated in the prior office action, Collins is being modified in view of Virkler and not vice versa. Collins illustrates the use of their bleaching composition in conjunction with direct dyes such as Direct Red 79 (Collins, Col. 26, Example 29). Virkler is being relied upon for the motivation of showing art recognized equivalents, in this case, the equivalence of reactive dyes and direct dyes such as Direct Red 79 (Virkler, Col. 9,

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lines 25-39). Therefore It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the direct dyes of Collins with the reactive dyes of Virkler to yield a method of treating a reactive dyed textile with the oxidizing system containing the macrocyclic metal complex as required by the instant Claims. It would be reasonable to expect that this substitution would work since the dyes have been shown to be functionally equivalent in the art and the same metal complex and oxidizing agents as required by the instant claims are also disclosed in the prior art.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaison P. Thomas whose telephone number is (571) 272-8917. The examiner can normally be reached on Mon-Fri 8:30 am to 5:00 pm.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jaison Thomas  
Examiner  
3/12/2007

JT



**LORNA M. DOUYON**  
**PRIMARY EXAMINER**